

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA**

In re:

**Case No.: 99-25025-BKC-PGH
Chapter 13**

**Thu Thi Lam,
Debtor.**

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**ORDER DENYING DEBTOR'S MOTION TO REOPEN CHAPTER 13 CASE TO ADD
CREDITORS**

THIS MATTER came before the Court on October 25, 2004 upon Thu Thi Lam's (the "Debtor") letter which the Court construes as a Motion to Reopen Chapter 13 Case to Add Creditors (the "Motion").

FINDINGS OF FACT

The Debtor filed her Chapter 13 on July 29, 1999. The plan was confirmed on October 19, 1999, was completed and a discharge was issued on February 20, 2004. On October 25, 2004, the Debtor requested the Court to reopen the case to add creditors.

CONCLUSIONS OF LAW

The issue presented in this case is whether a Chapter 13 debtor can reopen her case to add omitted creditors. A case may be reopened in the court in which such case was closed to administer assets, to accord relief to the debtor, or for other cause. 11 U.S.C. § 350(b). While § 350(b) is utilized by debtors in Chapter 7 cases, 11 U.S.C. § 1329 makes clear that a Chapter 13 plan cannot be modified after all payments have been made. *In re Rodriguez*, 225 B.R. 628, 632 (Bankr. S.D. Tex. 1998) (noting that 11 U.S.C. § 1329(a) allows for modification at any time before the completion of payments).

Creditors would be severely prejudiced if Chapter 13 debtors were allowed to reopen Chapter 13 cases to add creditors. First, an omitted creditor did not have the opportunity to share in the dividend along with other creditors in the debtor's Chapter 13 plan. *In re Simonis*, 92 B.R. 807, 808 (Bankr. E.D. Wis. 1988). Providing an omitted creditor with the same percentage of its claim as the other creditors would not completely cure this detriment. *Id.* Second, the omitted creditor did not have the opportunity to object to the confirmation of the plan if it believed that the requirements of 11 U.S.C. § 1325(a) were not met. *Id.* The omitted creditor's inability to make this inquiry at the time of confirmation of the plan constitutes the loss of a significant right. *Id.* at 809. Finally, the omitted creditor did not have the opportunity to ask the court to modify the plan under 11 U.S.C. § 1329(a) if the debtor's circumstances improved during the administration of the plan. *Id.* Consequently, based on the foregoing it would be inequitable to reopen the Debtor's Chapter 13 case.

ORDER

The Court having considered the Debtor's Motion, and being otherwise fully advised in the premises, hereby:

ORDERS AND ADJUDGES that the Debtor's Motion is **DENIED**.

ORDERED in the Southern District of Florida on October 29, 2004.

PAUL G. HYMAN, JR.
United States Bankruptcy Judge